

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

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NADINE HEMY and NANCY CONNER, :  
individually and on behalf of themselves :  
and all others similarly situated, :

Civil Action No.: 11-888 (FLW)

Plaintiffs, :

**ORDER**

v. :

PERDUE FARMS, INC., ABC :  
CORPORATIONS 1 through 10, AND :  
JOHN DOES 1-10, :

Defendants. :

\_\_\_\_\_  
This matter having been opened to the Court by way of motion of Liza Walsh, Esq., counsel for Defendant Perdue Farms, Inc. (“Perdue”), moving to dismiss Plaintiffs’ Amended Complaint, pursuant to Fed. R. Civ. P. 12(b)(6), or, in the alternative, to strike certain of Plaintiffs’ allegations, pursuant to Fed. R. Civ. P. 12(f); it further appearing that Mark Silver, Esq., counsel for Animal Welfare Institute (“AWI”), moved to intervene and stay the instant matter; it appearing that the Court considered the parties’ respective moving, opposition, and reply papers pursuant to Fed. R. Civ. P. 78; and for good cause shown:

It is on this 30th day of November, 2011,

ORDERED that the Defendant Perdue’s motion to dismiss (Docket Entry No. 9) is hereby GRANTED; and it is further

ORDERED that AWI’s motion to intervene and stay (Docket Entry No. 18) is hereby DENIED; and it is further

ORDERED that, as to all counts of Plaintiffs' Amended Complaint, Plaintiffs' claims are limited to the Harvestland chicken products; and it is further

ORDERED that all claims relating to Perdue's use of the "Raised Cage Free" label are DISMISSED WITH PREJUDICE; and it is further

ORDERED that Plaintiffs' unjust enrichment (Count IV) claim is also DISMISSED WITH PREJUDICE; and it is further

ORDERED that the remaining counts of Plaintiffs' Amended Complaint—the New Jersey Consumer Fraud Act ("NJCFA") claim (Count I), common law fraud claim (Count II), negligent misrepresentation claim (Count III), and breach of express warranty claim (Count V)—are DISMISSED WITHOUT PREJUDICE; and it is further

ORDERED that Plaintiffs are granted leave to file a Second Amended Complaint, in accordance with the dictates of the Opinion, within 30 days.

/s/ Freda L. Wolfson  
Freda L. Wolfson, U.S.D.J.